IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 86 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

TANSEN ALIAS TINA OMPRAKASH

Versus

STATE OF GUJARAT

Appearance:

None present for Petitioner

MS HANSA PUNANI, APP, for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 09/02/2000

ORAL JUDGEMENT

1. Heard the learned counsel for the respondents and perused the special criminal application. The petitioner a convict of offence under section 302 of I.P.C. presently at Central Jail, Baroda is praying for his release of due furlough on usual terms and conditions. His application for furlough leave came to be rejected

under the order dated 6-1-2000 of I.G. Jail (Prisons).

2. Furlough is a benefit which has been extended to a convict and the rejection thereof should have been on cogent and justified grounds. Merely because the police report is adverse it may not be a ground for rejection of the application. The authority conferred with the powers to consider this application has to record his own satisfaction on the basis of the material and if he is satisfied that the release of accused on furlough may result in breach of peace, there may be some justification. The stray phrase used for rejection of application is wholly unjustified and the order can be termed as perverse. The report of D.S.P. Panchmahals has also not been received.

3. In the facts of this case, this order cannot be allowed to stand and the same is quashed and set aside. The I.G. Jail (Prisons), Gujarat State, Ahmedabad is directed to pass fresh order on application of the petitioner keeping in view the observations made by this court in this judgment. The special criminal application and Rule stand disposed of accordingly.

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